

Appl. No. 10/827,088  
Docket No. 9606  
Amdt. dated August 16, 2006  
Reply to Office Action mailed on May 26, 2006  
Customer No. 27752

#### REMARKS

##### Claim Status

Claims 1 - 15 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 8, 9, 10 and 11 have been amended to more clearly define the disposable absorbent article and method in accordance with the teachings of the specification, for example, at page 11, lines 28-32 and page 12, lines 1-2. New Claims 12-15 have been added.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

##### Rejection Under 35 USC §102 Over Castello

Claims 1 and 8 have been rejected under 35 U.S.C. 102(b) as being anticipated by Castello (US 4,931,051). The Office Action asserted that Castello teaches a diaper having a backsheet (190), a topsheet (170) and an absorbent core (180). The Office Action further asserted that Castello teaches a color wetness indicator printed onto a surface of a backsheet of the diaper (col 2, lines 30-62) and a coating or varnish over the wetness indicator to prevent premature activation (col. 5, lines 14-21).

However, as will be set forth in detail below, it is believed that the disposable absorbent articles defined by claims 1 and 14 and the method defined by claim 11 are not anticipated by Castello. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Castello discloses a wetness indicator used on absorbent pads such as diapers for signaling the presence of water. Castello teaches that the active component of the wetness indicator is a hydratable salt which undergoes a color change when it transforms from an anhydrous compound to a hydrated compound. (See column 3, lines 37-40). According to the specification, the color change is the result of hydration, i.e. the chemical process of combining with water, where water maintains itself. (See column 4,

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lines 22-31). In contrast, independent claims 1, 11 and 14 recite a wetness indicator comprising a hydrolyzable color composition. That is, the color composition of claims 1, 11 and 14 changes color as the result of hydrolysis, i.e. the chemical process of splitting water into proton and hydroxide. This is an important difference because hydration is usually reversible, while hydrolysis is not reversible. Further, Castello does not teach a dual layer coating or varnish disposed over and beneath the wetness indicator as required by present claim 14.

Anticipation under 35 U.S.C. 102 requires the disclosure in a single prior art reference of each element of the claims under consideration, *Alco Standard Corp. v. TVA*, 808 F.2d 1490, 1 U.S.P.Q.2d 1337 (1341) (Fed. Cir. 1986). Because Castello fails to teach every element of independent claims 1, 11 and 14, Applicant asserts that independent claims 1, 11 and 14 are in condition for allowance. Further, because claims 2-10 and 12-13 depend directly or indirectly from claim 1 and claim 15 depends from claim 14, they too are not anticipated by Castello and therefore, are in condition for allowance.

#### Rejection Under 35 USC §103(a) Over Castello

Claims 2-4 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Castello reference previously discussed.

In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim 1. Thus, the cited reference does not teach or suggest all of the claim limitations of amended claim 1. Because claims 2-4

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depend from claim 1, the cited reference also fails to teach all of their claim limitations. Therefore, Applicant asserts that claims 2-4 are nonobvious over the cited reference and are in condition for allowance.

Rejection Under 35 USC §103(a) Over Castello in view of Schleinz et al

Claim 5 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Castello as applied to claims 1 and 8 above, and further in view of Schleinz et al. (US 5,458,590).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim 1. Thus, the cited reference does not teach or suggest all of the claim limitations of amended claim 1.

Moreover, the deficiencies of the Castello reference are not resolved by Schleinz et al. While Schleinz et al teaches an ink blend comprising n-propyl acetate, Applicant finds no teaching by Schleinz et al of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition. Similarly, Applicant finds no teaching or suggestion by Schleinz et al for modifying the teachings of Castello to result in the disposable absorbent article as recited in claim 1.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claim 5 depends from claim 1, the cited reference also fails to teach all of its claim limitations. Therefore,

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Applicant asserts that claim 5 is nonobvious over the cited combination and is in condition for allowance.

Rejection Under 35 USC §103(a) Over Castello in view of Ito et al

Claim 6 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Castello as applied to claims 1 and 8 above, and further in view of Ito et al. (US 5,595,754 A).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim 1. Thus, the cited reference does not teach or suggest all of the claim limitations of amended claim 1.

Moreover, the deficiencies of the Castello reference are not resolved by Ito et al. While Ito et al teaches absorbent color-changing sheets which use polyamides as resins in an impermeable layer, Applicant finds no teaching by Ito et al of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition. Similarly, Applicant finds no teaching or suggestion by Ito et al for modifying the teachings of Castello to result in the disposable absorbent article as recited in claim 1.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, supra. Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claim 6 depends from claim 1, the cited reference also fails to teach all of its claim limitations. Therefore, Applicant asserts that claim 6 is nonobvious over the cited combination and is in condition for allowance.

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Rejection Under 35 USC §103(a) Over Castello in view of Olson et al

Claims 7 and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Castello as applied to claims 1 and 8 above, and further in view of Olson et al. (WO 00/76442 A1).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim 1. Thus, the cited reference does not teach or suggest all of the claim limitations of amended claim 1.

While Olson et al teaches an absorbent article having a changing wetness indicator printed on an inner surface of a backsheet, Applicant finds no teaching by Olson et al of a disposable absorbent article as defined by claim 1 or the method of printing defined by claim 11, and containing a wetness indicator comprising a hydrolyzable color composition. Similarly, Applicant finds no teaching or suggestion by Olson et al for modifying the teachings of Castello to result in the disposable absorbent article as recited in claim 1 or the method of printing as recited in claim 11.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, supra. Because the cited combination fails to teach all of the claim limitations of amended claims 1 and 11, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article or method of printing in the possession of the public. Since claim 7 depends from claim 1, the cited reference also fails to teach all of its claim limitations. Therefore, Applicant asserts that claims 7 and 11 are nonobvious over the cited combination and are in condition for allowance.

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Rejection Under 35 USC §103(a) Over Castello in view of Polansky et al

Claims 9 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Castello as applied to claims 1 and 8 above, and further in view of Polansky et al. (US 4,249,532).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim. Thus, the cited reference does not teach or suggest all of the claim limitations of amended claim 1.

Moreover, the deficiencies of the Castello reference are not resolved by Polansky et al. In the Office Action dated May 26, 2006, the Office Action stated that: "Polansky teaches a seal coat underlying a graphic design." Applicants respectfully disagree with the Examiner's characterization of the placement of the seal coat as taught by Polansky et al. Specifically, Polansky et al discloses that design 16 is imprinted on an inner side 17 of a polyethylene sheet 13 so as to be visible for the outer side 18. (See column 1, lines 58-61). Further, Polansky et al teaches that after imprinting design 16 a seal coat 24 covers the printed colors. (See column 2, lines 8-10) Thus, the sealing coat of Polansky is disposed over the design rather than underneath, i.e. sheet 13, design 16 and sealing coat 24 disposed over design 16. In contrast, claim 10 recites a varnish coating disposed beneath the color composition so that the varnish coating is between the substrate and the color composition.

Notwithstanding, Applicant finds no teaching by Polansky et al of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition. Similarly, Applicant finds no teaching or suggestion by Polansky et al for modifying the teachings of Castello to result in the disposable absorbent article as recited in claim 1.

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References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, supra. Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claims 9 and 10 depend directly or indirectly from claim 1, the cited reference also fails to teach all of their claim limitations. Therefore, Applicant asserts that claims 9 and 10 are nonobvious over the cited combination and are in condition for allowance.

#### Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC §102(b) and §103(a). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 - 15 is respectfully requested.

Respectfully submitted,

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